

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Lesley Henry	Team: Team # 5	CCRB Case #: 201000194	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 12/30/2009 2:43 PM	Location of Incident: 1796 Atlantic Avenue	Precinct: 77	18 Mo. SOL 6/30/2011	EO SOL 6/30/2011	
Date/Time CV Reported Wed, 12/30/2009 2:55 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 01/06/2010 1:36 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Daniel Diaz	28347	940091	077 PCT
2. POM Danny Campbell	12016	938155	077 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Gregory Jones	03838	901739	077 PCT
2. POM Royston Ferguson	21448	938471	077 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Danny Campbell	Discourtesy: PO Danny Campbell spoke obscenely and/or rudely to § 87(2)(b)	
B.POM Danny Campbell	Force: PO Danny Campbell used physical force against § 87(2)(b)	
C.POM Daniel Diaz	Force: PO Daniel Diaz used physical force against § 87(2)(b)	

Case Summary

On December 30, 2009, § 87(2)(b) and § 87(2)(b) filed a complaint with the Internal Affairs Bureau by phone (encl. 4A-B). IAB log 10-00037 was forwarded to the CCRB and received on January 6, 2010.

On December 30, 2009, at 2:43 p.m., PO Danny Campbell encountered § 87(2)(b) in front of 1796 Atlantic Avenue in Brooklyn. The following allegations resulted:

- **Allegation A – Discourtesy-Word:** PO Danny Campbell spoke obscenely and/or rudely to § 87(2)(b) § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
- **Allegation B – Physical Force:** PO Danny Campbell used physical force against § 87(2)(b)
- **Allegation C – Physical Force:** PO Daniel Diaz used physical force against § 87(2)(b)
§ 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)

Results of Investigation

Civilian Statement(s)

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b) old black female, 5'4" tall, 163 lbs, with black hair and brown eyes. § 87(2)(b)

IAB Log 10-00037

On December 30, 2009, § 87(2)(b) and § 87(2)(b) reported to the Internal Affairs Bureau that PO Danny Campbell, whom they identified by name, allegedly grabbed § 87(2)(b) out of a parked car and slammed her to the ground. The log indicated that § 87(2)(b)'s sister, whose name was not provided, stated § 87(2)(b) received a summons from PO Campbell; § 87(2)(b) threw the summons to the ground and was allegedly "assaulted." Additional officers responded to the location and PO Daniel Diaz, whom was also identified by name, allegedly kicked and punched § 87(2)(b) while she lay on the ground. PO Diaz allegedly stated, "I don't give a fuck," when asked why he hit § 87(2)(b) § 87(2)(b) sustained pain to her neck, knee and back; however, she refused medical treatment (encl. 4A-B).

Telephone Statement

On January 13, 2010, § 87(2)(b) provided a telephone statement to the CCRB (encl. 6). Her statement was consistent with her sworn testimony with all significant information summarized below.

CCRB Testimony

On January 14, 2010, § 87(2)(b) was interviewed by the CCRB (encl. 7A-C). On December 30, 2009, at approximately 2:43 p.m., § 87(2)(b) and her friend, § 87(2)(b)

§ 87(2)(b) were parked in front of Auto Zone at 1796 Atlantic Avenue in Brooklyn. § 87(2)(b) attempted to reverse out of the spot as § 87(2)(b) was seated in the passenger seat. § 87(2)(b) noticed a marked police vehicle parked behind her and she exited the vehicle and approached the officer, whom she described as a black male, 5'8" tall, with a stocky build and short hair cut, and whom she identified by name as PO Danny Campbell. PO Campbell informed § 87(2)(b) that she was parked in a handicapped parking spot and that she was going to receive a summons.

§ 87(2)(b) entered the vehicle with the windows rolled up and PO Campbell placed the summons on the windshield. The windshield wipers automatically swiped the summons to the ground and PO Campbell ordered § 87(2)(b) to exit the vehicle and when she refused he called her a "bitch." § 87(2)(b) retorted that PO Campbell's mother was a "bitch." PO Campbell called for additional assistance and within approximately three minutes additional officers arrived. § 87(2)(b) and § 87(2)(b) switched seating positions and § 87(2)(b) was seated in the passenger seat when the back up officers arrived. § 87(2)(b) complied with the officers' command to exit the vehicle. PO Campbell pulled § 87(2)(b)'s right arm out of the car and placed it in a handcuff; however, she stiffened her body and refused to exit. PO Campbell slammed § 87(2)(b) on the ground and placed her fully in handcuffs.

§ 87(2)(b) stood to her feet and walked towards a marked patrol car; however, she moved her body around and resisted entering the car. An officer, whom she described as a white male, 6'2" tall, with black curly hair and in uniform, grabbed § 87(2)(b) by her feet, lifted her up and placed her inside of the patrol car. This officer was identified through investigation as PO Daniel Diaz. PO Diaz punched § 87(2)(b) in the legs approximately five times and she kicked him with her feet in response. PO Campbell opened the door on the opposite side and grabbed § 87(2)(b)'s breasts. The pain caused § 87(2)(b) to stop kicking and the officers closed the doors. § 87(2)(b)'s right hand was swollen and her back ached; she also received a scrape to her left ankle.

§ 87(2)(b) was transported to the stationhouse and when she exited the patrol car she sat on the ground. A sergeant, whom she described as a black male, 6'2" tall, with a white shirt in uniform, escorted § 87(2)(b) inside of the stationhouse. This officer was identified through investigation as Sgt. Gregory Jones. § 87(2)(b) requested medical attention; however, when EMS personnel arrived she refused medical attention because she did not want to delay her court appearance.

Telephone Statement

On January 13, 2009, § 87(2)(b) provided a telephone statement to the CCRB (encl. 10). On December 30, 2009, at approximately 2:43 p.m., § 87(2)(b) called § 87(2)(b) to the location and when she arrived she observed approximately four officers placing § 87(2)(b) inside of a marked patrol car. § 87(2)(b) identified one officer as PO Daniel Diaz, whose name she requested and received at the time of the incident. § 87(2)(b) described PO Diaz as a Hispanic male, 5'9"- 6'0" tall, with a heavy build and in uniform. PO Diaz punched § 87(2)(b) as he attempted to place her inside of a patrol car. § 87(2)(b) did not observe any officer grab § 87(2)(b)'s breast. § 87(2)(b) was scheduled to provide a sworn statement to the CCRB on January 14, 2010; however, she missed her scheduled appointment without calling to cancel or reschedule and was no longer available to the CCRB to reschedule.

Telephone Statement

On July 14, 2010, § 87(2)(b) provided a telephone statement to the CCRB (encl. 11). On December 30, 2009, at approximately 2:43 p.m., § 87(2)(b) and § 87(2)(b) left Auto Zone and entered § 87(2)(b) car. An officer, whose patrol car was parked behind § 87(2)(b) and § 87(2)(b) approached and placed a summons on the windshield. The summons was knocked to the ground by the car's automatic windshield wipers. The officer, identified by § 87(2)(b) as PO Campbell, whose name she obtained from the summons, requested § 87(2)(b)'s identification. § 87(2)(b) provided PO Campbell with a state issued identification and he refused to accept the identification and asked § 87(2)(b) to exit the vehicle. § 87(2)(b) refused to exit and she and PO Campbell "exchanged words;" however, § 87(2)(b) did not recall their exact statements. PO Campbell said § 87(2)(b) wanted to be a "smart ass."

Additional unidentified officers responded to the location and removed § 87(2)(b) from the vehicle, threw her to the ground, and then struggled to place her into a patrol car. PO Campbell pulled § 87(2)(b) by her hair. An officer, whom § 87(2)(b) described as a Hispanic male, 6'0" tall, with a heavy build and wearing glasses and a uniform, punched § 87(2)(b) in both of her legs approximately four times when she was halfway inside of the patrol car. § 87(2)(b) did not kick the officer. § 87(2)(b) and § 87(2)(b) told the officers to stop and the officer that punched § 87(2)(b) said, "I don't give a fuck. You can take my badge number" and provided a number which § 87(2)(b) did not recall at the time of her telephone statement. § 87(2)(b) scheduled to provide a verified statement on July 16 and July 29, 2010; however, she missed both appointments without calling to cancel or reschedule.

Attempts to Contact Civilians

§ 87(2)(b) informed the CCRB that her two sisters, § 87(2)(b) and § 87(2)(b) as well as a neighbor known to her as "§ 87(2)(b)" arrived at the location during the latter part of the incident. Between January 13 and September 27, 2010, the undersigned investigator placed five phone calls and left messages for § 87(2)(b). Two letters were mailed to § 87(2)(b) on January 13 and September 10, 2010, that were not returned to the CCRB by the United States Postal Service. § 87(2)(b) did not provide a telephone number for "§ 87(2)(b)" and two letters were mailed to him at the address provided that were not returned to the CCRB by the United States Postal Service. On September 28, 2010, a search of Lexis Nexis provided negative results for a telephone number for IAB complainant, § 87(2)(b). Two letters were mailed to § 87(2)(b) at the address provided that were not returned to the CCRB by the United States Postal Service.

NYPD Statement(s):

Subject Officer: PO DANNY CAMPBELL

- *PO Danny Campbell is a § 87(2)(b) old black male, 5'8" tall, 210 lbs, with black hair and brown eyes. On December 30, 2009, PO Campbell was assigned to the Auto Summons unit and worked alone in uniform from 8:00 a.m. until 2:00 p.m. He was assigned to a marked patrol car.*

Memo Book

PO Campbell's memo book entries indicate that at 2:31 p.m., he issued a summons to a BMW vehicle parked in a handicapped parking spot in front of 1796 Atlantic Avenue in

Brooklyn. At 2:53 p.m., PO Campbell arrested § 87(2)(b) for throwing her summons to the ground and refusing to provide identification. § 87(2)(b) resisted arrest by flailing and kicking. PO Campbell requested EMS to arrive; however, § 87(2)(b) refused medical attention (encl. 12A-D).

Complaint Report

§ 87(2)(a) 160.50

§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b) (encl. 13).

Arrest Report

§ 87(2)(a) 160.50

§ 87(2)(b) Physical force was used to restrain, control and remove § 87(2)(b) (encl. 14A-B).

CCRB Testimony

On May 13, 2010, PO Danny Campbell was interviewed at the CCRB (encl. 15A-B). On December 30, 2009, at approximately 2:31 p.m., PO Campbell observed a white BMW sedan parked in a handicapped parking spot in front of Auto Zone located at 1796 Atlantic Avenue in Brooklyn. PO Campbell parked his patrol car behind the vehicle with approximately three feet of space in between the two cars, exited the patrol car and began to write an illegal parking summons. § 87(2)(b) entered the BMW and attempted to reverse out of the spot; however, her car was blocked by PO Campbell's patrol car. PO Campbell placed the parking summons on the vehicle and § 87(2)(b) turned on the windshield wipers; however, the summons remained in place. § 87(2)(b) rolled down the window and removed the summons with her hand and threw it to the ground. PO Campbell requested § 87(2)(b)'s identification in order to issue her with a § 87(2)(b) summons; however, she rolled up the window and refused to provide her identification.

Another female, identified through investigation as § 87(2)(b) entered the passenger side and § 87(2)(b) tried a second time to "wiggle" out of the parking space. PO Campbell radioed for backup and waited for officers to respond. § 87(2)(b) slid across the front seat inside of the vehicle and § 87(2)(b) exited the passenger seat and walked around to enter the driver's seat. PO Campbell requested § 87(2)(b)'s identification again, yet she remained non-compliant. PO Campbell denied calling § 87(2)(b) a "bitch."

PO Diaz arrived alone and § 87(2)(b) held onto the driver's side chair and steering wheel and refused to exit the vehicle. PO Diaz loosened § 87(2)(b)'s grip on the driver's seat and steering wheel by grabbing her hands. PO Campbell grabbed § 87(2)(b) by her legs and pulled her from the car within approximately five minutes. PO Campbell denied slamming § 87(2)(b) onto the ground. PO Campbell turned § 87(2)(b) around in a standing position and placed in handcuffs. PO Campbell walked § 87(2)(b) to a patrol car and discussed her arrest with Sgt. Gregory Jones, who had arrived. Sgt. Jones verified § 87(2)(b)'s arrest and she resisted being placed inside of the patrol car.

§ 87(2)(b) squatted near the patrol car door entrance and PO Campbell lifted her up underneath her legs and placed her in the vehicle. PO Campbell denied grabbing her breasts and he denied observing PO Diaz punch or kick § 87(2)(b). PO Campbell transported § 87(2)(b) to the stationhouse and she refused to exit the patrol car. Sgt. Jones assisted PO Campbell in removing § 87(2)(b) from the patrol car by holding her underneath her arms and lifting her out of the vehicle.

§ 87(2)(b) said she was pregnant and that her back and leg hurt; she did not appear to be injured. PO Campbell requested medical attention; however, § 87(2)(b) would not allow the EMS workers to provide her with treatment.

Subject Officer: PO DANNY DIAZ

- *PO Diaz is a § 87(2)(b) old Hispanic male, 6'0" tall, 237 lbs, with black hair and brown eyes. On December 30, 2009, PO Diaz worked in uniform from 7:05 a.m. to 3:40 p.m. assigned to summons auto.*

Memo Book

PO Diaz's memo book entries indicate that at 2:45 p.m., he responded to 1796 Atlantic Avenue in response to an officer's call for assistance. § 87(2)(b) resisted arrest and kicked PO Diaz while being restrained in the rear of marked patrol car 2354 (encl. 16A-B).

CCRB Testimony

On September 10, 2010, PO Daniel Diaz was interviewed by the CCRB (encl. 17A-B). On December 30, 2009, at approximately 2:43 p.m., PO Diaz responded to 1796 Atlantic Avenue in Brooklyn in regards to an officer's call for assistance. PO Diaz was the first officer to respond to the location; however, within a few moments an unknown amount of officers responded. He observed PO Campbell standing near the passenger side of a blue vehicle commanding § 87(2)(b) to exit. § 87(2)(b) was seated in the passenger's seat holding onto the steering wheel with two hands and she refused to comply. The lower half of § 87(2)(b)'s body was hanging outside of the opened passenger side door. § 87(2)(b) called PO Campbell a "mother-fucker," and she stated she was being arrested because she was black. PO Diaz did not recall whether PO Campbell called § 87(2)(b) a "bitch."

PO Diaz denied having any physical interaction with § 87(2)(b) in order to remove her from her vehicle. PO Diaz did not observe § 87(2)(b) on the ground at any point during the interaction and he did not see who handcuffed her or when it was done. PO Diaz observed § 87(2)(b) handcuffed with PO Campbell walking towards a marked patrol car. § 87(2)(b) refused to enter the vehicle by kicking herself away from the car with her feet. PO Diaz assisted PO Campbell by grabbing § 87(2)(b) by her shoulders and turning her away from the patrol car. PO Diaz lifted § 87(2)(b) up – holding her behind her back and underneath her legs and he pushed her into the patrol car head first. § 87(2)(b) kicked her feet and hit PO Diaz in his chest, stomach and knees. PO Diaz was not injured. PO Diaz's first attempts to grab hold of § 87(2)(b)'s legs were unsuccessful. PO Diaz did not recall punching § 87(2)(b) in the legs. After approximately three attempts of grabbing at § 87(2)(b)'s legs, PO Diaz was able to hold both of her legs and squeeze them together to prevent her from kicking. PO Diaz did not observe any other officer squeeze § 87(2)(b)'s breasts and he did not recall her screaming out in pain during the incident. PO Diaz quickly closed the patrol car door behind § 87(2)(b) and he did not know whether she was injured by that action.

Witness Officer: SGT. GREGORY JONES

- *Sgt. Gregory Jones is a § 87(2)(b) old black male, 6'1" tall, 220 lbs, with black hair and brown eyes. On December 30, 2010, SGT Jones worked in uniform from 8:00 a.m. until 9:57 p.m. assigned as the conditions sergeant with PO Royston Ferguson assigned as the operator of their marked patrol car, 4495.*

Memo Book

Sgt. Jones memo book indicated that at 1:25 p.m., the conditions unit made an arrest and he returned to the stationhouse (encl. 18A-B).

CCRB Testimony

On June 30, 2010, Sgt. Jones was interviewed at the CCRB (encl. 19A-B). Sgt. Jones did not have an independent recollection of what occurred on December 30, 2009 at 1796 Atlantic Avenue in Brooklyn. Sgt. Jones viewed a copy of § 87(2)(b)'s identification and was provided with details of the complaint, but he still did not recall the incident.

Subject Officer: PO ROYSTON FERGUSON

- *PO Ferguson is a § 87(2)(b) old black male, 5'11" tall, 215 lbs, with black hair and brown eyes. On December 30, 2009, PO Ferguson was assigned as the sergeant's operator with Sgt. Gregory Jones.*

Memo Book

PO Ferguson did not have his memo book with him during his CCRB testimony and it was not provided or obtained after he provided his statement.

CCRB Testimony

On September 20, 2010, PO Royston Ferguson was interviewed at the CCRB (encl. 20A-B). PO Ferguson was provided with background information regarding the incident. He recalled receiving an officer's call for assistance at the location; however, he did not recall the specifics regarding what occurred at the incident. PO Ferguson was shown a copy of § 87(2)(b)'s arrest photograph; however, he did not recall her.

PO Ferguson arrived at the location with Sgt. Jones; other unidentified officers were already at the location. § 87(2)(b) was inside of her vehicle and she refused to exit. PO Ferguson did not recall which officers removed § 87(2)(b) from her vehicle. PO Ferguson did not hear PO Campbell call § 87(2)(b) a "bitch," and he did not observe anyone place § 87(2)(b) onto the ground. PO Ferguson did not recall seeing PO Diaz lift § 87(2)(b) to place her inside of a patrol car. PO Ferguson did not observe § 87(2)(b) punch or kick any of the officers and he did not recall whether PO Diaz punched § 87(2)(b) in her legs. PO Ferguson did not recall whether PO Campbell or any other officer grabbed § 87(2)(b)'s breast. PO Ferguson did not observe any injuries to § 87(2)(b). PO Ferguson did not recall observing § 87(2)(b)'s arrival at the stationhouse.

NYPD Document(s)

Arrest Photograph

§ 87(2)(b)'s arrest photograph does not contain any apparent injuries (encl. 9).

SPRINT W07507

SPRINT W07507 indicates that at 2:43 p.m., § 87(2)(b) was arrested at the intersection of Atlantic Avenue and Utica Avenue in Brooklyn (encl. 21).

77th Precinct Roll Call

The roll call indicates that Officers Campbell and Diaz were assigned to summons auto patrol in separate vehicles (encl. 22).

Command Log

The command log indicates that § 87(2)(b) was charged with § 87(2)(a). Her mental and physical condition was marked as normal. She filed a complaint with Det. Jerome Whitehurst from the Internal Affairs Bureau (encl. 23).

Summons/Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of December 27, 2010 with regard to the incident (encl. 25).

Civilian(s) Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian(s) CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) and it is the first complaint involving § 87(2)(b) and § 87(2)(b) (encl. 3A-C).

Subject Officer(s) CCRB History

- PO Danny Campbell has been a member of the service for 5 years and there are no substantiated CCRB allegations against him (encl. 2A).
- PO Daniel Diaz has been a member of the service for 4 years and there are no substantiated CCRB allegations against him (encl. 2B).

Conclusion

Identification of Subject Officer(s)

§ 87(2)(b) described the subject of her physical force allegations as a black male, 5'8" tall, with a stocky build and short hair cut and PO Campbell matched the description

provided; he also confirmed his interaction with § 87(2)(b) § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Investigative Findings and Recommendations

Allegation A – Discourtesy: PO Danny Campbell spoke obscenely and/or rudely to

§ 87(2)(b)

It is undisputed that PO Danny Campbell and § 87(2)(b) engaged in a verbal disagreement. § 87(2)(b) alleged that PO Danny Campbell called her a “bitch;” however, PO Campbell denied using discourteous language towards § 87(2)(b)

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Allegation B – Force: PO Danny Campbell used physical force against § 87(2)(b)

Allegation C – Force: PO Daniel Diaz used physical force against § 87(2)(b)

It is undisputed that § 87(2)(b) resisted arrest; however, she alleged that PO Campbell and PO Diaz used physical force against her § 87(2)(g)

§ 87(2)(b) Patrol Guide Procedure 203-11, which guides an officer’s use of force states, “Only the amount of force necessary to overcome resistance will be used to effect an arrest.” (encl. 1A-B). § 87(2)(b) alleged that PO Campbell pulled her from the car and pushed her to the ground to place her in handcuffs and squeezed her breasts after she had been placed inside of a patrol car. She additionally alleged that PO Diaz punched her in her lower legs approximately five times.

PO Campbell stated that § 87(2)(b) was non-compliant with his instructions to provide her identification, exit the vehicle and enter the patrol car, and his statements were supported by § 87(2)(b) s own testimony. § 87(2)(b) testified to refusing to exit her vehicle and refusing to enter the patrol car. She also testified to kicking PO Diaz. § 87(2)(g)

§ 87(2)(b)
§ 87(2)(b) complained of pain in her back and a scrape to her left ankle; however, when presented with the opportunity to receive medical treatment she refused. § 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Team: _____

:

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____

	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date